

AF

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of:

JOHN T. PUGACZEWSKI ET AL.

Group Art Unit: 2141

Examiner: Melvin H. Pollack

Appeal No.: 2004-0855

Serial No.: 09/469,206

Filed: December 21, 1999

For: NETWORK MANAGEMENT SYSTEM AND GRAPHICAL USER INTERFACE

Attorney Docket No.: 1626 (USW 0529 PUS)

**REQUEST FOR REHEARING BY THE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby request rehearing by the Board of Patent Appeals and Interferences of the appeal in this application. The following points are believed to have been misapprehended or overlooked in rendering the decision.

In the claim construction, the Board acknowledges the following limitations:
“remotely provisioning the switch with the network management system in response to receiving the message to throttle the network connection at the switch such that the connection bandwidth between the switch and the user access point is limited by the user selected

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bandwidth.” However, in the anticipation determination, it appears that the limitation of “to throttle the network connection at the switch such that the connection bandwidth between the switch and the user access point is limited by the user selected bandwidth” has not been specifically addressed. The decision focuses on the mode switching ability of Jones. However, at most, this feature of Jones only provides provisioning, and does not suggest the throttle function.

Claim 1 recites a specific action/function combination including the limitation of “to throttle the network connection at the switch such that the connection bandwidth between the switch and the user access point is limited by the user selected bandwidth.” Jones fails to suggest this limitation.

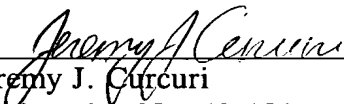
Jones does describe the fanning out of upstream and downstream channels, and multiplexing available bit rate (ABR) and variable bit rate (VBR) data traffic from different sources. Jones also describes enabling the number of upstream and downstream channels to differ and enabling the number of upstream and downstream channels to vary from call to call and within a call. In making the anticipation determination, the Board has only focused on the claimed aspect of provisioning the switch in response to receiving the message. The Board has failed to address the further limitation of “to throttle the network connection at the switch such that the connection bandwidth between the switch and the user access point is limited by the user selected bandwidth.”

Applicants contend that there is no structure within Jones for performing throttling of the network connection at the switch such that the connection bandwidth between the switch and the user access point is limited by the user selected bandwidth. In contrast, Jones only describes connecting the user signal to the local switch fabric to the transport network bandwidth using a traditional hand shaking technique as opposed to the claimed technique of throttling the network connection at the switch as recited by claim 1.

Because the anticipation determination seems to overlook a specific limitation of claim 1 that is acknowledged in the claim construction, Applicants respectfully request rehearing of this appeal, and believe that the final rejection of claims 1-10 should be reversed.

Respectfully submitted,

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